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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,882	11/05/2003	Colin Ford	7199	6706

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EXAMINER

LUONG, SHIAN TINH NHAN

ART UNIT PAPER NUMBER

3728

DATE MAILED: 06/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/701,882

Applicant(s)

FORD ET AL.

Examiner

Shian T. Luong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 3, 4, 16, 17 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-2, 5-15, 18-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/28/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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Election/Restrictions

1. Claims 3-4,16-17,20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 5/13/05

Claim Rejections - 35 USC § 112

2. Claims 10-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 10, the interconnection between the pair of tear lines and the fold line should be located inbetween the bottom panel and the other side panel and not the parallel tear lines itself from the top panel to the bottom panel. With regard to claim 2, the interconnection between the fold lines and the pair of tear lines as disclosed is a cut line. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2,5-8, 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Merkel et al. (US 3,002,613). Merkel et al. discloses a combination shipping and dispensing carton which can be converted into side-by-side dispensers for dispensing pouches in their upright position,

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the carton comprising a bottom panel 19a,19b, a top panel 18a,18b and foldably attached adjoining side panels 20a,20b,21a,21b, with each end being closed by a top end flap 48,49 foldably attached to the top panel, a side end flap foldably attached to each side panel, a bottom end flap foldably attached to the bottom panel, with means for securing the flaps in the closed position. The carton has a pair of tear lines 22,23 extending through a side panel between the top panel and the bottom panel. A fold line 27,28 that is scored or interspersed with cuts extends in the other side panel. The fold line and the pair of tear lines being interconnected so that when the pair of tear lines have been torn open, the carton can be formed in to side-by-side dispensers by folding the folding line in the other side panel. The interconnection between the fold line and the pair of tear lines is at least one tear line or perforated line. The starting flap is the portion of the flap adjacent line 25 after a portion of the tear lines have been torn.

With regard to claims 5,6, the fold line and the pair of tear lines are located so as to form side-by-side dispensers that are of approximately the same size and configuration. The fold line and the pair of tear lines and the interconnection between them are each located approximate equidistant between two ends of the carton.

With regard to claims 7,8, the means for closing the end flaps is with glue and the top panel is formed from two flaps that are glued together.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Merkel et al. in view of Saam (US 5,927,498) or Carroll (US 5,921,398). Merkel discloses generally all of the limitations of the claims, but does not show a plurality of pouches with product. Saam or Carroll teaches a storage and display carton for storing flexible pouches. The pouches having a top and bottom with top of the pouch being less full of product than bottom. The pouches arranged in two rows with their bottoms being alternatively adjacent an end of the carton and the tops of the pouches meeting in the center of the carton and overlapping each other so that the length between the ends of the carton is from approximately the length of a pouch to one and half times the length of a pouch carried in the carton. The pouches separate into the appropriate compartments after forming the side-by-side dispensers. Accordingly, it would have been obvious in view of Saam or Carroll to store articles such as pouches within the carton of Merkel et al. to separate the articles into the appropriate compartments.

7. Claims 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Merkel et al. in view of Mott (US 2,152,079). Merkel et al. does not show the tear line configuration in the side panel and the bottom panel as claimed. But Mott teaches a fold-in-half shipping box with tear away segments in its front side and top and rear wall. The box can be folded in half to display items contained therein after the tear away lines or segments have been removed. The side panel of the blank has divergent tear lines and the bottom panel has substantially parallel tear line along most of the bottom panel. The tear lines converges into the other side panel until they meet the fold line. After separate dispensers have been formed, the front wall of the dispenser has a low height from the bottom of the dispenser to allow viewing of the pouch. It

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would have been obvious in view of Mott to form the tear lines as claimed to provide a large dispensing opening in the front wall of the dispenser.

8. Claims 15,19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Merkel et al. in view of Saam (US 5,927,498) or Carroll (US 5,921,398) and Mott (US 2,152,079). Merkel discloses generally all of the limitations of the claims, but does not show a plurality of pouches with product. Saam or Carroll teaches a storage and display carton for storing flexible pouches. The pouches having a top and bottom with top of the pouch being less full of product than bottom. The pouches arranged in two rows with their bottoms being alternatively adjacent an end of the carton and the tops of the pouches meeting in the center of the carton and overlapping each other so that the length between the ends of the carton is from approximately the length of a pouch to one and half times the length of a pouch carried in the carton. The pouches separate into the appropriate compartments after forming the side-by-side dispensers. Accordingly, it would have been obvious in view of Saam or Carroll to store articles such as pouches within the carton of Merkel et al. to separate the articles into the appropriate compartments.

Merkel et al. does not show the tear line configuration in the side panel and the bottom panel as claimed. But Mott teaches a fold-in-half shipping box with tear away segments in its front side and top and rear wall. The box can be folded in half to display items contained therein after the tear away lines or segments have been removed. The side panel of the blank has divergent tear lines and the bottom panel has substantially parallel tear line along most of the bottom panel. After separate dispensers have been formed, the front wall of the dispenser has a low height from the bottom of the dispenser to allow viewing of the pouch. It would have been

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obvious in view of Mott to form the tear lines as claimed to provide a large dispensing opening in the front wall of the dispenser.

Conclusion


9. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners, M.P.E.P. 203.08.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Erica Miller at (571) 272-4370.

For applicant's convenience, the official FAX number is (703) 872-9306. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify Examiner Luong of Art Unit 3728 at the top of your cover sheet of any correspondence submitted.

Inquiries concerning the merits of the examination should be directed to Shian Luong whose telephone number is (571) 272-4557. The examiner can normally be reached on M-H from 7:00am to 4:00pm EST.

STL
June 15, 2005


Primary Examiner
Shian Luong
Art Unit 3728